

**S.B. CIVIL WRIT PETITION NO.4357/2005
(Vakhatram Amaliya & anr. Vs. State & ors.)**

Date of Order :: 19th July 2007

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.B.N.Kalla for the petitioners
Mr.S.M.Toshniwal for Mr.N.M.Lodha, AAG
Mr.Tarun Joshi for the respondent

BY THE COURT:

In response to the advertisement dated 02.06.2004 (Annex.1) for Primary Teacher Examination-2004, the petitioners considering themselves eligible and qualified offered their candidature; and appeared in the examination conducted by the Rajasthan Public Service Commission ('RPSC'); and are said to have stood at merit No.30307-B and 29773-B respectively. However, the petitioners were informed by the letters dated 23.06.2005 and dated 22.06.2005 (Annex.3 and Annex.6 respectively) that their candidature stood cancelled for their not passing the necessary BSTC/B.Ed. Examination till the date of declaring of the result of the said selection examination i.e., 05.01.2005.

The petitioners have preferred this writ petition questioning the proposition so stated by the RPSC for cancellation of their candidature with the submissions that they had taken the admission in B.Ed. Course at the Indian

Institute of Management and Technology, Hisar and it was in the month of December, 2004 that the said Institution conducted the examination of B.Ed.Course and declared its result on 22.01.2005; and as such there was no fault on the part of the petitioners. According to the petitioners, their representation made in this regard to the respondents (Annex.8) has wrongly been ignored.

The respondents in their reply have contended that the petitioners could not acquire qualification before the cut-off date; that till the date of declaration of result relating to selection test, they were not qualified; that on the basis of merit, appointments have been given somewhere in the month of February-March, 2005; and that there has not been any violation of any statutory condition. It has been stated that the qualification has been prescribed in the advertisement dated 02.06.2004 itself and thereafter a corrigendum was issued giving a relaxation that the person who had appeared in the examination of BSTC/B.Ed. in the year 2004 could be considered as qualified if he has acquired such qualification by the date the result of selection test is declared; and the petitioners not fulfilling such requirements, are not entitled for any relief.

The petitioners have stated in their rejoinder submissions that the cut-off date as alleged by the

respondents, of 05.01.2005, was ultimately extended upto 30.07.2005 by way of press-note issued on 22.07.2005; and a copy of press-note has been placed on record as Annex.RJ/1. It has been contended that the petitioners had deposited their qualification certificate before the said cut-off date and ought to have been selected.

During the course of submissions, learned counsel appearing for the respondent categorically submitted that no person having acquired qualification after declaration of result i.e., 05.01.2005 has been offered appointment.

Having given a thoughtful consideration to the matter with reference to the law applicable, this Court is clearly of opinion that the petitioners are not entitled for any relief and this writ petition deserves to be dismissed.

The fundamental proposition of law that a person desirous to be appointed on a specific post is required to possess eligibility on the date his candidature is to be considered, cannot be taken any more of doubt or debate. The Hon'ble Supreme Court in the case of Ashok Kumar Sonkar Vs. Union of India and others: (2007) 4 SCC 54 has been pleased to deal with the proposition of law in this regard in sufficient detail and has pointed out the necessity of providing cut-off date for determination of eligibility particularly in relation to educational qualification in any recruitment that

in order to avoid uncertainties in such matters, fixation of a cut-off date is a must; and the Hon'ble Apex Court has held that in absence of any cut-off date specified in the advertisement or in the rules, the last date for putting in the application must be considered as cut-off date. The Hon'ble Court has held,-

"Possession of requisite educational qualification is mandatory. The same should not be uncertain. If an uncertainty is allowed to prevail, the employer would be flooded with applications of ineligible candidates. A cut-off date for the purpose of determining the eligibility of the candidates concerned must, therefore, be fixed. In absence of any rule or any specific date having been fixed in the advertisement, the law, therefore, as held by this Court would be the last date for filing the application."

This Court while deciding on 04.07.2007 a batch of petitions led by the case of Parmeshwar Patidar & ors. Vs. State of Rajasthan & others: S.B.Civil Writ Petition No.1817/2007 has rejected the prayer for permitting the candidates to submit proof of their educational qualification acquired later than the cut-off date. This Court has taken note of the situation arising due to non-declaration of result or non-conducting of the examination of a particular course by the stipulated date; and though finding that there was no fault on the part of the candidate, this Court observed that it may not give right to the candidate to claim consideration of the candidature because on the date of declaration of result of the

selection test, the candidate neither possessed the requisite qualification nor submitted proof thereof. This Court has said,-

"Non-conducting the examination of Teacher's Training or non-declaration of the result thereof by the stipulated date is certainly no fault on the part of the petitioners, but certainly it does not give right to the petitioners to claim consideration of their candidature for the post in question as on the date of declaration of the result of the competitive examination, the petitioners neither possess the requisite educational qualification of Teacher's Training nor submitted the proof of having qualified the teacher's training course which was a condition precedent while allowing them to apply and appear in the competitive examination held by the respondent-RPSC. Merely allowing the petitioners to apply and appear in the competitive examination for the post in question does not provide them any right to claim consideration of their candidature for appointment on the post in question without possessing requisite educational qualification as advertised and provided in the relevant rules."

In the present case, the advertisement in question while stating the requirements of educational qualification in paragraph-5 clearly provided that such qualification ought to be acquired by the last date of receiving the application thus:

“नोट :- आवेदन पत्र प्राप्ति की अन्तिम दिनांक तक उपरोक्त योग्यता प्राप्त होना अनिवार्य है ।”

The respondents have pointed out in their reply that as per corrigendum, a relaxation was given to the extent that if a person who had appeared in examination of BSTC/B.Ed. in

the year 2004, he could be considered qualified if he had acquired qualification by the date the result of selection test was declared. It is an admitted position that the petitioners could not acquire such qualification even by the date of declaration of result i.e., 05.01.2005. inasmuch as their result of B.Ed. examination was declared only on 22.01.2005. Obviously, the respondents have not committed any illegality or error in rejecting their candidature.

The submission as made on behalf of the petitioners with reference to the press-note dated 22.07.2005 (Annex.RJ/1) is fundamentally misconceived. The said press-note is meant for and refers to the selected candidates whose applications were pending for want of depositing certain certificates/degrees. The said press-note does not relate to the petitioners whose candidature had already been rejected on 23.06.2006 and 22.06.2005 respectively; and who had not acquired qualification by the cut-off date. The said press-note could only relate to such selected candidates who were otherwise eligible but for any reason had not been able to submit the necessary credentials for finalisation of their selection. The said press-note cannot be read as a relaxation of the requirement of the condition of acquiring qualification by the cut-off date i.e. 05.01.2005. It has been precisely stated by the counsel for the respondent that no person having

acquired qualification after declaration of result has been offered appointment.

The petition remains bereft of substance and is, therefore, dismissed. No costs.

(DINESH MAHESHWARI),J.

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